

EXHIBIT 1

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

STEVEN R. KINCAID,)
Plaintiff,)
vs.	CIVIL ACTION NO.
BANK OF AMERICA CORPORATION,	84-11522-WGY
Defendant.)

DEPOSITION
OF
ALEC KOTOPoulos

At Charlotte, North Carolina

June 2, 2005

Reporter: Christine A. Taylor
Notary Public

Kotopoulos

2

APPEARING

For the Plaintiff: DAVID J. FINE, ESQ.
Law Offices of David J. Fine
Suite 400
Three Center Plaza
Boston, Massachusetts 02108

For the Defendant: RICHARD P. KANE, ESQ.
McGuireWoods, LLP
Suite 2900
180 North Tryon Street
Charlotte, North Carolina 28202

Also Present: Steven Kincaid

* * * *

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Examination By Mr. Fine

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EXHIBITS

(No exhibits were marked.)

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1 This is the deposition of ALEC KOTOPoulos, taken
2 in accordance with the Federal Rules of Civil Procedure
3 in connection with the above case.

4 Pursuant to Notice, this deposition is being taken
5 in the Law Offices of Hamilton, Fay, Moon, Stephen,
6 Steele & Martin, 2020 Charlotte Plaza, 201 South College
7 Street, Charlotte, North Carolina, beginning at 9:00 a.m.
8 on June 2, 2005, before CHRISTINE A. TAYLOR, Notary
9 Public.

10
11 ALEC KOTOPoulos, upon first being duly
12 sworn, testified as follows:

13

EXAMINATION BY MR. FINE

15 Q. Please state your full name.
A. Alec Kotopoulos.
17 Q. Could you spell the last name?
A. K-o-t-o-p-o-u-l-o-s.
19 Q. Where do you reside?
A. In Charlotte, North Carolina.
21 Q. How are you employed?
A. I'm not.
23 Q. When is the last time you were employed?
A. With Bank of America. So that would have
been 2004.

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1 Q. When did you leave the bank in 2004?
A. February.
3 Q. What were the circumstances of your leaving?
A. Merger.
5 Q. Who merged with whom?
A. Fleet and Bank of America. Bank of America
bought Fleet.
8 Q. And at the time of the merger various people
at Bank of America were let go?
A. That's my understanding.
11 Q. Did you receive a severance package?
A. I received a package. I was offered a
package and accepted the package.
14 Q. What were the terms of the package?
A. That's private between the bank and I.
16 Q. Well --
A. There were monetary, if that's what you're
asking.
19 Q. Well, you're being called to testify as a
witness in this case and the financial terms would be
potentially relevant to your bias in the case, so I
think that it is a fair subject of examination.
23 MR. KANE: Bias to?
24 MR. FINE: How he feels about the bank. If
he got a good severance package, he might be more

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DEPOSITION OF ALEX KOTOPoulos

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1 inclined to testify in the bank's favor.
 2 MR. KANE: What details do you want from him?
 3 I want to know how far you're going with it.

4 MR. FINE: I want to know what the elements
 5 of the severance package were. If the bank is giving
 6 Mr. Kotopoulos two years salary, I want to know that,
 7 and I want to know what the salary was. And if in
 8 addition to that they're giving him other
 9 consideration, I want to know that. And if he has an
 10 agreement to consult with the bank, I want to know
 11 that.

12 MR. KANE: Okay. At this point it's your
 13 decision, but I don't see any harm in it.

14 THE WITNESS: Well, financially, I was
 15 offered -- it was something over \$100,000. I think it
 16 was a hundred -- I don't remember exactly. Call it
 17 \$125,000, somewhere around that.

18 BY MR. FINE:

19 Q. How did that compare with your yearly salary
 20 at the time?

21 A. I think my annual salary was \$175,000 base
 22 salary.

23 Q. And in addition to the \$125,000, were there
 24 any other elements of the severance package?

25 A. I was able to cash out of some options, you

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1 know, they had many hadn't vested yet because nominal
 2 amount of money maybe \$10,000 and a few months I
 3 believe of health insurance, and then of course the
 4 standard COBRA type stuff.

5 Q. Did you enter into any kind of consulting
 6 agreement with the bank?

7 A. No. No.

8 Q. What was your job title at the time that you
 9 were laid off?

10 A. Senior vice president.

11 Q. What area were you in?

12 A. I had market research, competitive
 13 intelligence, and database analytics for the retail
 14 bank.

15 Q. Did you have responsibility for a group?

16 A. Groups, plural.

17 Q. And how many employees were in the groups
 18 that you supervised?

19 A. I mean, it fluctuated depending upon people
 20 coming in and all of that. I had three-dozen people,
 21 36 people say.

22 Q. And those 36 people were divided into how
 23 many groups?

24 A. Three.

25 Q. What were the names of the groups?

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1 A. The three that I mentioned earlier, market
 2 research, competitive intelligence, and database
 3 analytics.

4 Q. When did you first join Bank of America?

5 A. Was it October of 2000 and I believe 3.

6 Q. Was it possibly 2002?

7 A. I've forgotten. I have to go back in my
 8 mind. Yeah, 2002. I'm sorry. Yes.

9 Q. And when you were hired by the bank, in what
 10 capacity were you hired?

11 A. I'm not sure I understand the question.

12 Q. What was your job title?

13 A. Same thing, senior vice president, market
 14 research, competitive intelligence. I did not have
 15 database analytics, that piece of database analytics
 16 at that point.

17 Q. So from the time that you were hired --

18 A. Uh-huh.

19 Q. -- until the time that you were let go, you
 20 had responsibility for market research?

21 A. Yes.

22 Q. And --

23 A. Competitive intelligence.

24 Q. When was the database analytics added?

25 A. I think it would have been in the summer

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1 because we had a bit of a re-org. So summer of 2003.
 2 Q. Who had had responsibility for the database
 3 analytics group before it was assigned to you?

4 A. I guess my boss would have, Vipin.

5 Q. Vipin Mayar?

6 A. Yeah.

7 Q. Was Vipin Mayar still working at the bank at
 8 the time that you left?

9 A. That's my understanding, yes.

10 Q. When is the last time that you were in touch
 11 with Vipin Mayar?

12 A. Do I need to answer that question?

13 MR. KANE: Yes.

14 THE WITNESS: Okay. Well over a year.

15 BY MR. FINE:

16 Q. When you were last in touch with him, was he
 17 still working at the bank?

18 A. Yes. Yeah.

19 Q. And what was your occasion for being in touch
 20 with him?

21 A. I was not in touch with him. He called me.

22 Q. What did he say when he called you?

23 A. He wanted to talk to me, wanted to get

24 together for breakfast or lunch, one of those things.

25 Q. Was -- and did you get --

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